

MEF:TJS
F.#2004R01353

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

S U P E R S E D I N G
I N D I C T M E N T

- against -

ALPHONSE T. PERSICO,
also known as "Allie Boy" and
"the Kid,"
JOHN J. DEROSS,
also known as "Jackie," and
CARMINE DEROSS, III,
also known as "Skippy,"

Cr. No. 04 Cr. 911 (S-3) (SJ)
(T. 18, U.S.C., §§
924(c)(1)(A)(iii),
1512(b)(1), 1512(b)(2)(A)
1959(a)(1), 1959(a)(3),
1959(a)(5), 2,
371 and 3551 et seq.)

Defendants.

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THE GRAND JURY CHARGES:

INTRODUCTION TO ALL COUNTS

At all times relevant to this Superseding Indictment,
unless otherwise indicated:

The Enterprise

1. The members and associates of the Colombo organized crime family of La Cosa Nostra (the "Colombo Family") constituted an "enterprise," as that term is defined in Title 18, United States Code, Sections 1959(b)(2) and 1961(4), that is, a group of individuals associated in fact, that engaged in, and the activities of which affected, interstate and foreign commerce. The enterprise constituted an ongoing organization whose members functioned as a

continuing unit for a common purpose of achieving the objectives of the enterprise. The Colombo Family operated in the Eastern District of New York and elsewhere.

2. The Colombo Family was part of a nationwide criminal organization known by various names, including the "mafia" and "La Cosa Nostra," which operated through entities known as "families." The ruling body of this nationwide organization was known as the "Commission," the membership of which at various times has included the bosses of the five New York City-based families, to wit: the Bonanno, Colombo, Gambino, Genovese and Luchese organized crime families.

3. The Colombo Family consisted of groups of individuals headed by "captains," who were also referred to as "skippers." These groups, which were referred to as "crews," were comprised of "made" members of the Colombo Family, who were referred to as "soldiers," "friends of ours," "good fellows" and "buttons," and associates of the Colombo Family. Certain crew members maintained their own crew of associates to assist them in carrying out their criminal activity.

4. Each captain was responsible for supervising the criminal activities of his crew and providing crew members with support and protection. In return, the captain received a share of the earnings of each of the crew's members and associates.

5. Above the captains were the three highest-ranking members of the Colombo Family, collectively referred to as the administration. The head of the Colombo Family, who was known as the "boss," was assisted by an "underboss" and a counselor, who was known as the "consigliere." With the assistance of the underboss and consigliere, the boss was responsible for setting policy, resolving disputes between members of the Colombo Family and members of other criminal organizations, and approving significant actions by members of the Colombo Family. When a member of the administration was unable to fulfill his criminal responsibilities because of incarceration, ill health or other reason, a member of the Colombo Family was often appointed to that position in an acting capacity.

6. The boss, underboss and consigliere of the Colombo Family supervised, supported, protected and disciplined the captains, soldiers and associates and regularly received reports regarding the activities of the members and associates of the Colombo Family. In return for their supervision and protection, the boss, underboss and consigliere received part of the illegal earnings of each crew.

The Defendants

7. At various times relevant to this Superseding Indictment, the defendant ALPHONSE T. PERSICO, also known as "Allie Boy" and "the Kid," was a soldier, captain and acting boss of the

Colombo Family. At various times relevant to this Superseding Indictment, the defendant JOHN J. DEROSS, also known as "Jackie," was a soldier, captain and underboss of the Colombo Family. At various times relevant to this Superseding Indictment, the defendant CARMINE DEROSS, III, also known as "Skippy," was an associate of the Colombo Family.

The Victims

8. At various times relevant to this Superseding Indictment, up to May 26, 1999, William Cutolo, Sr., also known as "Wild Bill," was the underboss of the Colombo Family. At various times relevant to this Superseding Indictment, Joseph Campanella, also known as "Joe Campy," was a soldier in the Colombo Family.

The Purposes, Methods and Means of the Enterprise

9. The principal purpose of the enterprise was to generate money for its members and associates. Additionally, members of the enterprise engaged in conduct designed to prevent government detection of their identities, their illegal activities and the proceeds of those activities. These purposes were implemented by members and associates of the enterprise through various criminal activities, including murder, assault, extortion and loansharking. Among other methods and means by which the members of the enterprise furthered its criminal activities were threatening economic injury and using and threatening physical violence.

10. The Colombo Family, through its members and associates, engaged in racketeering activity as defined in Title 18, United States Code, Sections 1959(b)(1) and 1961(1), namely, acts involving murder, extortion and gambling, in violation of New York State Penal Law, acts indictable under Title 18, United States Code, Sections 892, 893 and 894 (involving the making, financing, and collecting of extortionate extensions of credit), acts indictable under Title 18, United States Code, Section 1951 (involving extortion), acts indictable under Title 18, United States Code, Section 1955 (involving gambling), acts indictable under Title 18, United States Code, Section 1956 (involving money laundering), and acts involving narcotics trafficking in violation of Title 21, United States Code, Sections 841 and 846.

COUNT ONE

(Murder in Aid of Racketeering)

11. The allegations contained in paragraphs 1 through 10 are realleged and incorporated as if fully set forth in this paragraph.

12. On or about May 26, 1999, within the Eastern District of New York and elsewhere, the defendants ALPHONSE T. PERSICO, also known as "Allie Boy" and "the Kid," and JOHN J. DEROSS, also known as "Jackie," together with others, for the purpose of gaining entrance to and maintaining and increasing position in the Colombo Family, knowingly and intentionally murdered William Cutolo, Sr.,

also known as "Wild Bill," in violation of New York Penal Law Sections 125.25(1) and 20.00.

(Title 18, United States Code, Sections 1959(a)(1), 2 and 3551 et seq.)

COUNT TWO

(Conspiracy to Commit Murder in Aid of Racketeering)

13. The allegations contained in paragraphs 1 through 10 are realleged and incorporated as if fully set forth in this paragraph.

14. In or about and between May 2001 and July 16, 2001, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants ALPHONSE PERSICO, also known as, "Allie Boy" and "the Kid," JOHN J. DEROSS, also known as "Jackie," and CARMINE DEROSS, IIT, also known as "Skippy," together with others, for the purpose of gaining entrance to and maintaining and increasing position in the Colombo Family, knowingly and intentionally conspired to murder Joseph Campanella, also known as "Joe Campy," in violation of New York Penal Law Sections 125.25(1) and 105.15.

(Title 18, United States Code, Sections 1959(a)(5) and 3551 et seq.)

COUNT THREE

(Assault with a Dangerous Weapon)

15. The allegations contained in paragraphs 1 through 10 are realleged and incorporated as if fully set forth in this paragraph.

16. On or about July 16, 2001, within the Eastern District of New York and elsewhere, the defendants ALPHONSE T. PERSICO, also known as "Allie Boy" and "the Kid," JOHN J. DEROSS, also known as "Jackie," and CARMINE DEROSS, III, also known as "Skippy," together with others, for the purpose of gaining entrance to and maintaining and increasing position in the Colombo Family, knowingly and intentionally assaulted Joseph Campanella, also known as "Joe Campy," with a dangerous weapon, in violation of New York Penal Law Sections 120.05(2) and 20.00.

(Title 18, United States Code, Sections 1959(a)(3), 2 and 3551 et seq.)

COUNT FOUR

(Using, Carrying and Possessing a Firearm)

17. The allegations contained in paragraphs 1 through 10 are realleged and incorporated as if fully set forth in this paragraph.

18. On or about July 16, 2001, within the Eastern District of New York and elsewhere, the defendants ALPHONSE T. PERSICO, also known as "Allie Boy" and "the Kid," JOHN J. DEROSS, also known as "Jackie," and CARMINE DEROSS, III, also known as "Skippy,"

knowingly and intentionally used and carried a firearm during and in relation to a crime of violence, to wit: the crimes charged in Counts Two and Three, and in furtherance of such crimes of violence, knowingly and intentionally possessed said firearm.

(Title 18, United States Code, Sections 924(c)(1)(A)(iii), 2 and 3551 et seq.)

COUNT FIVE
(Witness Tampering Conspiracy)

19. The allegations contained in paragraphs 1 through 10 are realleged and incorporated as if fully set forth in this paragraph.

20. In or about and between March 2000 and April 2000, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants ALPHONSE T. PERSICO, also known as "Allie Boy" and "the Kid," and JOHN J. DEROSS, also known as "Jackie," together with others, knowingly and willfully conspired to use intimidation, to threaten and to corruptly persuade other persons, to wit: Marguerite Cutolo, William Cutolo, Jr., and Barbara Jean Cutolo Cardinale, with intent to: (1) influence, delay and prevent the testimony of Marguerite Cutolo, William Cutolo, Jr., and Barbara Jean Cutolo Cardinale in an official proceeding, to wit, a federal grand jury investigation into the murder of William Cutolo, Sr. and any proceedings in federal court resulting therefrom, in violation of Title 18, United States Code, Section 1512(b)(1); and (2) cause and induce

Marguerite Cutolo, William Cutolo, Jr., and Barbara Jean Cutolo Cardinale to withhold testimony from said official proceedings, in violation of Title 18, United States Code, Section 1512(b)(2)(A).

21 In furtherance of this conspiracy and in order to accomplish the objectives thereof, within the Eastern District of New York and elsewhere, the defendants ALPHONSE T. PERSICO and JOHN J. DEROSS committed and caused to be committed, among others, the following:

OVERT ACTS

a. On or about March 28, 2000, the defendant JOHN J. DEROSS met with Marguerite Cutolo, William Cutolo, Jr., and Barbara Jean Cutolo Cardinale at a residence in Staten Island and coerced them into meeting with a private investigator working for ALPHONSE T. PERSICO by threatening them with future harm if they refused to cooperate with PERSICO.

b. On or about March 30, 2000, a private investigator working for ALPHONSE T. PERSICO interviewed Marguerite Cutolo, William Cutolo, Jr., and Barbara Jean Cutolo Cardinale at a residence in Staten Island, New York.

c. On or about March 30, 2000, a private investigator working for ALPHONSE T. PERSICO surreptitiously tape-recorded the interview with Marguerite Cutolo, William Cutolo, Jr. and Barbara

Jean Cutolo Cardinale even though the private investigator assured these individuals that they were not being recorded.

(Title 18, United States Code, Sections 371 and 3551 et seq.)

COUNT SIX
(Witness Tampering)

22. The allegations contained in paragraphs 1 through 10 are realleged and incorporated as if fully set forth in this paragraph.

23. In or about and between March 2000 and April 2000, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants ALPHONSE T. PERSICO, also known as "Allie Boy" and "the Kid," and JOHN J. DEROSS, also known as "Jackie," together with others, knowingly and intentionally used intimidation, threatened and corruptly persuaded other persons, to wit: Marguerite Cutolo, William Cutolo, Jr., and Barbara Jean Cutolo Cardinale, and attempted to do so, with intent to: (1) influence, delay and prevent the testimony of Marguerite Cutolo, William Cutolo, Jr., and Barbara Jean Cutolo Cardinale in an official proceeding, to wit: a federal grand jury investigation into the murder of William Cutolo, Sr. and any proceedings in federal court resulting therefrom; and (2) cause and induce

Marguerite Cutolo, William Cutolo, Jr., and Barbara Jean Cutolo
Cardinale to withhold testimony from said official proceedings.

(Title 18, United States Code, Sections 1512(b)(1),
1512(b)(2)(A), 2 and 3551 et seq.)

A TRUE BILL

Arthur J. Jumbert
FOREPERSON

ROSLYNN R. MAUSKOPF
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

BY: Eric Caputo
ACTING UNITED STATES ATTORNEY
PURSUANT TO 28 C.F.R. 0.136